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STRADDLING FISH STOCKS AND
HIGHLY MIGRATORY FISH STOCKS
Fifth session
New York, 27 March-12 April 1995

REPORT ON THE FIFTH SESSION OF THE UNITED NATIONS CONFERENCE ON STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Prepared by the Secretariat

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I. INTRODUCTION

A. Opening of the session

1. The fifth session of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks was held in New York from 27 March to 12 April 1995. The session was convened in accordance with paragraph 2 of General Assembly resolution 49/121 of 19 December 1993, entitled "United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks". The sixth session of the Conference will be held in New York from 24 July to 4 August 1995. 1/

2. The Chairman of the Conference made a statement at the opening of the session. 2/ In that statement, he provided, inter alia, information on the results of inter-sessional consultations held at Geneva in February 1995, at which some 25 States had been represented. He stated that the consultations had provided an opportunity for an exchange of views on the various provisions of the draft Agreement which he had prepared at the end of the fourth session and that the discussions among delegations had reinforced the constructive attitude that had prevailed at that session. He referred to a number of useful suggestions made for improving the text and expressed his expectation that those and other suggestions would be made in the plenary of the fifth session. He confirmed that inter-sessional discussions could be only preparatory in nature and that they did not, and could not, pre-empt the deliberations and decisions of the Conference. He underlined that they were nevertheless useful in that they had identified areas where more time and effort were needed and paved the way towards ultimate agreement.

3. He further noted that among the matters which generated much discussion were the following: compatibility of conservation and management measures in areas under national jurisdiction and in high seas areas; new participants in subregional or regional fisheries organizations or arrangements; enforcement of conservation and management measures in high seas areas by non-flag States; and the desirability of using the provisions of the United Nations Convention on the Law of the Sea with respect to settlement of disputes.

4. Referring to a recent report on the state of world fisheries and aquaculture issued by the Food and Agriculture Organization of the United Nations (FAO), he emphasized that action was needed on:

(a) The control of fishing effort and the reduction of the industry's overcapacity;

(b) Resource allocation decisions;

(c) The establishment of more effective users' rights; improved decision-making on resource use;

(d) The adoption of precautionary approaches to fisheries conservation and management.

5. He emphasized that the problems identified in the FAO report were the very concerns that had led to the convening of the Conference. They did not belong to one region or one group of States, but concerned the international community as a whole. He underlined that the solutions must be global in nature, and their effect must be to bring order to the oceans and to promote cooperation among States.

B. Attendance

6. Representatives of the following 94 States attended the session: Algeria, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bangladesh, Barbados, Belgium, Belize, Benin, Brazil, Canada, Chile, China, Colombia, Congo, Cook Islands, Costa Rica, Côte d'Ivoire, Cuba, Denmark, Ecuador, Egypt, Estonia, Fiji, France, Germany, Ghana, Greece, Guatemala, Guinea-Bissau, Guyana, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Jamaica, Japan, Kenya, Kiribati, Lebanon, Lithuania, Malaysia, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Morocco, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Niue, Norway, Pakistan, Panama, Papua New Guinea, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Samoa, Senegal, Seychelles, Solomon Islands, South Africa, Spain, Sri Lanka, Sweden, Syrian Arab Republic, Thailand, Tonga, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Vanuatu, Venezuela and Viet Nam.

7. The following associate member of a regional commission was represented: Montserrat.

8. The following specialized agency was represented: Food and Agriculture Organization of the United Nations (FAO).

9. The following seven intergovernmental organizations were represented: Inter-American Tropical Tuna Commission (IATTC), European Community, International Commission for the Conservation of Atlantic Tunas (ICCAT), International Maritime Satellite Organization (INMARSAT), Organización Latinoamericana de Desarrollo Pesquero (OLDEPESCA), North Atlantic Salmon Conservation Organization (NASCO) and Permanent South Pacific Commission (CPPS).

10. The following 29 non-governmental organizations were represented, in accordance with paragraphs 4 and 12 of General Assembly resolution 47/192 of 22 December 1992: American Oceans Campaign, American Society of International Law, Association of the Bar of the City of New York, Association Tunisienne pour la Protection de la Nature et de l'Environnement, Both Ends, Canadian Oceans Caucus, Center for Marine Conservation, Centre de Recherches pour le Développement des Technologies Intermédiaires de Pêche (CREDETIP), Comité Catholique contre la Faim et pour le Développement, Council on Ocean Law, Federation of Japan Tuna Fisheries Cooperative Associations, Fisheries Council of Canada, Fish, Food And Allied Workers (FFAW CAW), Friends of the Earth International, Greenpeace International, International Coalition of Fisheries Associations, International Collective in Support of Fishworkers (ICSF), International Confederation of Free Trade Unions, International Institute for

Sustainable Development, International Union for the Conservation of Nature (IUCN), National Audubon Society, National Wildlife Federation, Natural Resources Defense Council, Quaker United Nations Office, United Nations Association in Canada, United Nations Environment & Development - UK Committee (United Nations Association - UK), Wildlife Conservation Society, Women and Fisheries Network, and World Wide Fund for Nature (WWF UK).

C. Programme of work

11. Following the consultations of the Chairman with the members of the Bureau, the Conference agreed to the following programme of work for the session: (a) meetings of the plenary to give delegations the opportunity to make general comments on the Draft Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks prepared by the Chairman of the Conference (A/CONF.164/22); (b) examination of the text in detail in informal meetings of the plenary; (c) informal consultations of the Chairman with a view to resolving outstanding issues; and (d) examination of the text in its revised form, to be issued at the beginning of the second week of the session.

II. GENERAL DEBATE

12. In accordance with the programme of work referred to in paragraph 11, at the 58th, 59th and 60th meetings, held on 27 and 28 March 1995, general statements were made by Mr. Brian Tobin, Minister of Fisheries and Oceans of Canada, and Ms. Emma Bonino, Commissioner of the European Commission, as well as by the representatives of United States of America, Chile, Peru, Australia (on behalf of the member countries of the South Pacific Forum Fisheries Agency), Thailand, China, Brazil, Japan, the Republic of Korea, Poland, Iceland, Norway, Argentina, the Russian Federation, Ukraine, Bangladesh, Mexico, Ecuador and Morocco. Statements were also made by the representatives of the Permanent South Pacific Commission (CPPS) and the Latin American Organization for Fisheries Development (OLDEPESCA), as well as by the observer for Greenpeace International.

III. CONSIDERATION OF THE ISSUES

13. From the 60th to 75th meetings, the Conference conducted a section-by-section examination of the Draft Agreement prepared by the Chairman of the Conference.

14. The Draft Agreement consisted of: Preamble, Part I (General provisions), Part II (Conservation and management of straddling fish stocks and highly migratory fish stocks), Part III (Mechanisms for international cooperation concerning straddling fish stocks and highly migratory fish stocks), Part IV (Responsibilities of the flag State), Part V (Compliance and enforcement), Part VI (Port State enforcement), Part VII (Requirements of developing States), Part VIII (Peaceful settlement of disputes), Part IX (Non-participants), Part X

(Abuse of rights), Part XI (Non-parties to this Agreement), Part XII (Reports on implementation and review conference), Part XIII (Final provisions), annex 1 (Minimum standard for collection and sharing of data), annex 2 (Suggested guidelines for application of precautionary reference points in conservation and management of straddling fish stocks and highly migratory fish stocks) and annex 3 (Arbitration procedure).

15. At the 60th meeting, held on 28 March 1995, statements were made by the representatives of the Russian Federation, Peru, Japan, Bangladesh, Canada, India, Argentina, Poland, Mexico, the Republic of Korea, Australia, New Zealand, China, Malta, Papua New Guinea, the United States of America and Norway, as well as by the representative of the European Community.

16. At the 61st meeting, held on 28 March, statements were made by the representatives of Peru, Chile, Poland, the Russian Federation, China, Argentina, Uruguay, Japan, Estonia, Australia, New Zealand, Sri Lanka, India, Poland, Brazil, Canada, Morocco, Papua New Guinea, the United States of America, the Republic of Korea and Lebanon, as well as by the representative of the European Community. A statement was also made by the observer for Greenpeace International.

17. At the 62nd meeting, held on 29 March, statements were made by the representatives of Chile, Uruguay, the United States of America, Japan, Peru, India, Canada, the Russian Federation, Papua New Guinea, Poland, New Zealand, Australia, Fiji, Morocco, the Philippines, Argentina and Indonesia, as well as by the representative of the European Community. The observer for the Natural Resources Defense Council also made a statement.

18. At the 63rd meeting, held on 29 March, statements were made by the representatives of Peru, Chile, the United States of America, Uruguay, New Zealand, Lebanon, Australia, Poland, the Russian Federation, Brazil, the Federated States of Micronesia, Sri Lanka, Indonesia, Canada, Japan, China, Colombia, the Republic of Korea, Malta, Ecuador and Argentina, as well as by the representative of the European Community. The representative of the Permanent South Pacific Commission (CPPS) and the observer for the Canadian Oceans Caucus made statements.

19. At the 64th meeting, held on 30 March, statements were made by the representatives of Iceland, the Philippines, Uruguay, the Republic of Korea, Thailand, Chile, New Zealand, Peru, Norway, the Russian Federation, Japan, Indonesia, Argentina, Mexico, Papua New Guinea, Poland, Australia, the United States, China, Ukraine, Kiribati, Colombia, the Islamic Republic of Iran, India, Guatemala and Morocco, as well as by the representative of the European Community.

20. At the 65th meeting, held on 30 March, statements were made by the representatives of the United States, Canada, Peru, the Russian Federation, Japan, New Zealand, Poland, Chile, Canada, Thailand, Australia, Uruguay, the Republic of Korea, China, India, Argentina, Mexico and Malta, as well as by the representative of the European Community. Statements were also made by the observers for Greenpeace International, the World Wide Fund for Nature and the Canadian Ocean Caucus.

21. At the 66th meeting, held on 31 March, statements were made by the representatives of Papua New Guinea, the Russian Federation, Guatemala, Canada, Chile, the United States, Norway, Thailand, Japan, Peru, China, Poland, Australia and Brazil, as well as by the representative of the European Community.

22. At the 67th meeting, held on 31 March, statements were made by the representatives of Iceland, Canada, the Republic of Korea, the Federated States of Micronesia, Mexico, Israel, Thailand, Belize, Uruguay, Chile, Papua New Guinea, India, Argentina, the Russian Federation, New Zealand, Peru, Japan, Malta, Poland, China, the United States, Mexico, the Marshall Islands, the Philippines, Sri Lanka and Australia, as well as by the representative of the European Community. A statement was also made by the observer for the International Collective in Support of Fishworkers (ICSF).

23. At the 68th meeting, held on 3 April, statements were made by the representatives of Canada, Uruguay, Fiji, China, Brazil, Japan, Poland, Morocco, the Republic of Korea, the Russian Federation, Malta, Peru, Australia, the United States, Mexico, Israel, New Zealand, Norway, the Philippines and Chile, as well as by the representative of the European Community.

24. At the 69th meeting, held on 3 April, statements were made by the representatives of Sri Lanka, Thailand, Canada, the Russian Federation, Panama, the Republic of Korea, the United States, Peru, Uruguay, Poland, Japan, New Zealand, China, Australia, Papua New Guinea, the Federated States of Micronesia, Indonesia, Israel, Mexico, Malta and Chile, as well as by the representative of the European Community. A statement was also made by the observer for the International Collective in Support of Fishworkers (ICSF).

25. At the 70th meeting, held on 4 April, statements were made by the representatives of the United States, the Republic of Korea, Japan, China, Chile, Thailand, Poland, New Zealand, Argentina, Sri Lanka, Colombia, Norway, Australia, the Russian Federation, Indonesia, Uruguay, Malta, Peru, Papua New Guinea, Mexico, Ecuador, Fiji, the Philippines and Estonia, as well as by the representative of the European Community. The representative of the Permanent South Pacific Commission (CPPS) also made a statement.

26. At the 71st meeting, held on 4 April, statements were made by the representatives of Morocco, the Republic of Korea, Peru, Mexico, Japan, Uruguay, Canada, Indonesia, Poland, the Russian Federation, Brazil, China, Iceland, Mexico, Australia, the Marshall Islands, Norway, the Philippines, Venezuela, the United States, Malaysia, Malta, Sri Lanka, New Zealand and Papua New Guinea, as well as by the representative of the European Community. Statements were also made by the observers for the International Collective in Support of Fishworkers and Greenpeace International.

27. At the 72nd meeting, held on 5 April, statements were made by the representatives of Peru, Chile, Malta, Argentina, the Russian Federation, Canada, the United States, Turkey, Norway, Venezuela, Poland, Papua New Guinea, China, Tunisia, the Republic of Korea, Uruguay, Japan, New Zealand, Israel, Mexico, Ecuador, Estonia, Australia and Indonesia, as well as by the representative of the European Community.

28. At the 73rd meeting, held on 5 April, statements were made by the representatives of the United States, the Russian Federation, Venezuela, Brazil, Japan, Senegal, New Zealand, the Philippines, Australia, China, Argentina, Malta, Mexico, Peru, Japan, Chile, Sri Lanka, Iceland, Canada, the Republic of Korea, Norway, Australia, Thailand, Indonesia, Kiribati, Uruguay, the Federated States of Micronesia, Papua New Guinea, the Marshall Islands and Poland, as well as by the representative of the European Community. Statements were also made by the observers for Greenpeace International and the International Collective in Support of Fishworkers.

29. At the 74th meeting, held on 6 April, statements were made by the representatives of Brazil, Peru, the Russian Federation, the Republic of Korea, China, Iceland, Mexico, the Marshall Islands, Poland, New Zealand, Norway, Australia, Argentina, Morocco, Lebanon, Ecuador, Venezuela, Uruguay, Japan, Chile, the Philippines, Indonesia, the United States, Papua New Guinea, the Federated States of Micronesia, Namibia, Vanuatu, Malta and the Russian Federation, as well as by the representative of the European Community. A statement was also made by the observer for Centre de Recherches pour le Développement des Technologies Intermédiaires de Pêche (CREDETIP).

30. At the 75th meeting, held on 6 April, statements were made by the representatives of Peru, Norway, Canada, Israel, Uruguay, Papua New Guinea, Venezuela, the United States, Japan, Morocco, Malta, China, Argentina, the Russian Federation and Indonesia, as well as by the representative of the European Community.

31. At the 76th meeting, held on 7 April, the Chairman introduced informal texts of revised articles of the Draft Agreement.

32. At the same meeting, statements were made by the representatives of Australia (on behalf of the member countries of the South Pacific Forum Fisheries Agency), the Russian Federation, Turkey, Peru, Japan, Uruguay, Chile, Canada, Malta and Brazil.

33. At the 77th meeting, held on 10 April, the Conference began the consideration of a document entitled "Revised text of Draft Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks", prepared by the Chairman (A/CONF.164/CRP.6 and Add.1).

34. At the same meeting, statements were made by the representatives of Canada, the Russian Federation, Norway, Thailand, Japan, Argentina, Chile, Malta, New Zealand, the Republic of Korea, Mexico, China, Uruguay, Australia, Ukraine, Poland and Peru, as well as by the representative of the European Community. A statement was also made by the observer for Greenpeace International.

35. At the 78th meeting, held on 10 April, consideration of the revised text continued, with statements made by the representatives of Japan, Canada, Indonesia, Argentina, the Russian Federation, Peru and Turkey, as well as by the representative of the European Community.

36. At the 79th meeting, held on 11 April, the Chairman made a statement on the organization of work. Statements were made by the representatives of Chile, Peru, Uruguay, Poland and Japan.

37. During the session, the Chairman also convened several informal consultations with a view to addressing outstanding issues.

IV. CREDENTIALS COMMITTEE

38. The Credentials Committee met on 7 April 1995.

39. At the 79th meeting, held on 11 April, the Chairman of the Credentials Committee, Mr. A. L. Daverede (Argentina), introduced the report of the Credentials Committee A/CONF.164/27 3/ and informed the Conference that, in addition to the States listed in paragraph 4 of the report, credentials in the form provided for by rule 4, paragraph 1, of the rules of procedure had been submitted to the Secretary-General by Bahamas, Colombia, India and the Republic of Korea. 4/

40. At the same meeting, the Conference approved the report of the Credentials Committee and adopted the draft decision as contained in paragraph 8 of the report.

V. VOLUNTARY FUND

41. In paragraph 5 of resolution 49/121, the General Assembly renewed its request to Governments and regional economic integration organizations to contribute to the voluntary fund established for the purpose of assisting developing countries, especially those most concerned by the subject-matter of the Conference, in particular the least developed among them, to participate fully and effectively in the Conference.

42. A contribution to the fund with respect to the fifth session was received from Canada. Travel assistance for attending this session was granted to representatives of eight States falling under the provisions of paragraph 9 of General Assembly resolution 47/192. Travel expenses shall be reimbursed to representatives of four other such States.

VI. CLOSING OF THE SESSION

43. At the 80th meeting, held on 12 April 1995, the Chairman introduced a complete revised text of the Draft Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (A/CONF.164/22/Rev.1), which he had prepared on the basis of documents A/CONF.164/CRP.6 and Add.1.

44. At the same meeting, the Chairman made a closing statement. 5/ He expressed his belief that considerable progress had been made during the current session in all areas of work of the Conference.

45. He also recalled the mandate of the Conference given in resolution 47/192 and stressed that the Conference must deliver an outcome which would provide for better conservation and management of straddling fish stocks and highly migratory fish stocks as a whole, based on compatible measures taken in areas within national jurisdiction and those on the high seas, the use of the precautionary approach, including the use of reference points, and requirements relating to data collection. He emphasized that sustainable use of these resources was the common responsibility of all who were present-day custodians of the resource.

46. With respect to the revised text of the Draft Agreement, he noted, inter alia, that it took a balanced approach between the interests of the coastal States and those of distant-water fishing nations. Those were, however, not the only interests that had to be considered; the collective interests of the international community must also be taken into account if the sustainable use of those resources for present and future generations was to be secured.

47. He stated that in order to achieve the objective of long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks, the text created three essential pillars. It provided for principles and practices on which better management of stocks should be based and sought to establish compatible conservation and management regimes both inside and outside areas of national jurisdiction. It attempted to ensure that the conservation and management measures adopted for the high seas were adhered to, and complied with, and that they were not undermined. For that purpose, basic standards and principles needed to be set in a global agreement in order to avoid a proliferation of different rights with differing degrees of assertions, with a view to promoting certainty and stability in the oceans for all. Finally, it provided for peaceful settlement of disputes by establishing procedures which would promote the sustainable use of resources through improved cooperation among States.

48. The text acknowledged, he further noted, that stocks must be managed in an effective way. It also recognized the biological unity of stocks and the different legal regimes applying in the areas of national jurisdiction and on the high seas consistent with the provisions of the United Nations Convention on the Law of the Sea. In devising measures for better management, the text went beyond just addressing the problems of the high seas, and sought to establish that better management of stocks was the responsibility of all States and in all zones, taking into account the respective competencies of States under the Convention.

49. In concluding, he recalled that the next session would be the final one, at which the Conference should conclude its work by adopting an Agreement. He emphasized that much of the time would have to be devoted to technical aspects relating to the finalization of the text and its harmonization in all languages, and that the Conference would also need to look at the draft Final Act which the

Secretariat would prepare. He recognized, however, that during the very early part of the final session, the Conference might have to consider some of the substantive matters with a view to improving the text. Finally, he encouraged those who wished to undertake informal consultations in preparation for the next session to do so. He reminded the delegations that the programme of work for the next session had been decided at the fourth session. 6/

50. At the same meeting, statements were made by the representatives of Brazil, Peru, Estonia, Norway, Chile, the United States, Japan, Indonesia, China, Australia (on behalf of the member countries of the South Pacific Forum Fisheries Agency), Argentina, Poland, the Russian Federation, Uruguay, the Republic of Korea, Canada, Iceland, Senegal, Morocco, Sri Lanka and Mexico, as well as by the representative of the European Community. The observers for Greenpeace International and for the World Wide Fund for Nature also made statements.

Notes

1/ For the report on the fourth session of the Conference, see document A/CONF.164/25. For the report of the Secretary-General to the forty-ninth session of the General Assembly under agenda item 89 (c) (environment and sustainable development) entitled "Sustainable use and conservation of the marine living resources of the high seas: United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks", see document A/49/522.

2/ A/CONF.164/26.

3/ Subsequently revised and issued as A/CONF.164/27/Rev.1.

4/ As of 16 May 1995, five more States, i.e., Belize, Cuba, Mauritania, Panama and Seychelles had validated the appointment of their representatives by submitting credentials in the form provided for by rule 4, paragraph 1 of the rules of procedure.

5/ A/CONF.164/28.

6/ See A/CONF.164/24, para. 9, and document A/CONF.164/25, para. 31.